

Exhibit B

In the Matter Of:

EDWARD YEARTA vs
AMUSEMENTS OF AMERICA
2:17-cv-2117 SHM-egb

CHRISTOPHER VIVONA

June 28, 2018



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1 IN THE DISTRICT COURT
2 FOR THE UNITED STATES OF AMERICA
3 WESTERN DISTRICT OF TENNESSEE

4 EDWARD ALAN YEARTA,)
5)
6 Plaintiff,)
7)
8 v.) Civil Action No.
9) 2:17-cv-2117 SHM-egb
10 AMUSEMENTS OF AMERICA,)
11 INC.; DELTA FAIR,)
12 INC.; UNIVERSAL FAIRS,)
13 LLC; and BELLE CITY)
14 AMUSEMENTS, INC.,)
15)
16 Defendants.)
17)
18 AMUSEMENTS OF AMERICA,)
19 INC.,)
20)
21 Crossclaim Plaintiff,)
22)
23 v.)
24)
25 BELLE CITY AMUSEMENTS,)
 INC.,)
)
 Crossclaim Defendant.)

17 VIDEOTAPED DEPOSITION

18 OF

19 CHRISTOPHER R. VIVONA

20 JUNE 28, 2018

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22
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<p style="text-align: right;">214</p> <p>1 preparation for it, sure.</p> <p>2 Q. Is this a means of communication for the</p> <p>3 people that you do business with?</p> <p>4 A. Yes.</p> <p>5 Q. What's your email address?</p> <p>6 A. [REDACTED]</p> <p>7 Q. Is that the same email address you used</p> <p>8 regarding the 2016 Delta Fair?</p> <p>9 A. Yes.</p> <p>10 Q. Have you exchanged any emails with anyone</p> <p>11 relating to the August 30, 2016 incident involving</p> <p>12 Mr. Yearata?</p> <p>13 A. Other than lawyers?</p> <p>14 Q. Other than lawyers.</p> <p>15 A. I don't think so, no.</p> <p>16 Q. When was the last time you saw Mr. Yearata?</p> <p>17 A. That event in 2016.</p> <p>18 Q. Did you talk to him at any point after the</p> <p>19 incident?</p> <p>20 A. No.</p> <p>21 Q. Tell me all the communications you would</p> <p>22 have had with anyone from Belle City regarding the</p> <p>23 August 30, 2016 incident.</p> <p>24 A. I know, when it happened, Zach called me</p> <p>25 and wanted to know if I called an ambulance yet and</p>	<p style="text-align: right;">215</p> <p>1 I wasn't sure what he was referring to because I had</p> <p>2 just gotten off of the midway area. So then I went</p> <p>3 out to the midway to see what was happening. And</p> <p>4 then once I was in the general area of the Ring of</p> <p>5 Fire and Ronnie and Mr. Yearata were on the way in</p> <p>6 the ambulance, I went back and Zach had told me he</p> <p>7 did not ground the generators -- his generator.</p> <p>8 Q. Any others?</p> <p>9 A. That's about it.</p> <p>10 Q. Any conversations after August 30, 2016</p> <p>11 with any Belle City employees or representatives</p> <p>12 regarding the incident?</p> <p>13 A. Not that I can recall.</p> <p>14 Q. You testified that right after the</p> <p>15 incident happened, the wire was live so you didn't</p> <p>16 go back to inspect. Is that what you said?</p> <p>17 A. Correct.</p> <p>18 Q. At what point did you go back to that</p> <p>19 area?</p> <p>20 A. I guess it was once the power company got</p> <p>21 there to turn the power off.</p> <p>22 Q. Do you know when that was?</p> <p>23 A. It was on the same day in between 6:00 and</p> <p>24 8:00.</p> <p>25 Q. Is this when you had the conversation with</p>
<p style="text-align: right;">216</p> <p>1 Zach regarding the generator?</p> <p>2 A. Yes.</p> <p>3 Q. Was it dark outside?</p> <p>4 A. No.</p> <p>5 Q. Was the sun setting at this point?</p> <p>6 A. I don't know. I remember it was bright,</p> <p>7 bright enough where you could see.</p> <p>8 Q. How did the conversation with Zach</p> <p>9 regarding the generator start?</p> <p>10 A. It started when the power company was</p> <p>11 there. When they got there, he was upset because it</p> <p>12 was not grounded and he told me it was not grounded.</p> <p>13 Q. Did you say anything in response?</p> <p>14 A. I told him to get it grounded as soon as</p> <p>15 possible.</p> <p>16 Q. And what did he say?</p> <p>17 A. He went and did it.</p> <p>18 Q. Did you see him go do it?</p> <p>19 A. Not him personally, no.</p> <p>20 Q. You mean you didn't see him personally or</p> <p>21 you didn't see the --</p> <p>22 A. I didn't see him put the ground rods in.</p> <p>23 Q. Did you see anyone put the ground rods in?</p> <p>24 A. I saw guys going back to do it. But I do</p> <p>25 not -- because it was in between the two trailers, I</p>	<p style="text-align: right;">217</p> <p>1 couldn't see them doing it in motion.</p> <p>2 Q. Who were those guys that you saw going</p> <p>3 back to do it?</p> <p>4 A. It was Zach's crew. I know it was -- I</p> <p>5 don't know exactly who was there. I know Jerry</p> <p>6 Sears was there and Zach was there, and whoever he</p> <p>7 got to go with him to put them in.</p> <p>8 Q. So it was Jerry, Zach and one other</p> <p>9 person?</p> <p>10 A. I don't know.</p> <p>11 Q. You said you saw some guys go back?</p> <p>12 A. A group. And I didn't count them. I</p> <p>13 don't know.</p> <p>14 Q. Earlier you testified that Zach said to</p> <p>15 you that he did not ground the generators; is that</p> <p>16 right?</p> <p>17 A. He said it was not grounded.</p> <p>18 Q. So he said it was not grounded?</p> <p>19 A. Correct.</p> <p>20 Q. Did he say where he came to learn that</p> <p>21 information?</p> <p>22 A. He's involved with that. Both Zach and</p> <p>23 Jerry are electricians for their show.</p> <p>24 Q. Do you know if they are licensed</p> <p>25 electricians?</p>

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<p style="text-align: right;">230</p> <p>1 Q. So do the poles offer power or 2 electricity?</p> <p>3 A. I can't say for all of them. I was just 4 going by the number on them. But many of them were 5 for power also.</p> <p>6 Q. And do any ride or ride operators plug 7 into those poles?</p> <p>8 A. No.</p> <p>9 Q. They do not?</p> <p>10 A. No.</p> <p>11 Q. And is there a reason they don't?</p> <p>12 A. Yeah. That's not for us. And the power 13 isn't sufficient anyway. It's mostly just for 110 14 which is just like a regular plug.</p> <p>15 Q. Are all rides at the 2016 Delta Fair 16 operated -- or powered by generators?</p> <p>17 A. Yes.</p> <p>18 Q. Do you see where it says offices right 19 under lower midway?</p> <p>20 A. Yes.</p> <p>21 Q. Are those referring to Amusements of 22 America offices?</p> <p>23 A. Yes.</p> <p>24 Q. When you said staff office earlier, is 25 that what you were referring to?</p>	<p style="text-align: right;">231</p> <p>1 A. It's an office compound that has three 2 offices. One is for ticket sales. One is more 3 staff-related stuff. And then the other one is a 4 smaller office where Jerry Smithson has a desk. And 5 it's more for relaxation.</p> <p>6 Q. And so those three -- are those three 7 different units?</p> <p>8 A. Yes.</p> <p>9 Q. And those three different units are 10 clustered where it says offices?</p> <p>11 A. Yes.</p> <p>12 Q. What powers those offices?</p> <p>13 A. It's the same power. Those might have 14 been plugged into city power, but I can't recall. 15 I'm pretty sure we left those on city power.</p> <p>16 Q. What does that mean?</p> <p>17 A. That means over in that section, there's 18 an area where you have like an RV plug and there's a 19 panel there which we were allowed to use that just 20 for the offices.</p> <p>21 Q. Okay. Where would that be in relation 22 to -- I mean, what direction from the offices would 23 that be?</p> <p>24 A. It would be -- I don't recall. It's in 25 the vicinity. Not far away.</p>
<p style="text-align: right;">232</p> <p>1 Q. What is Mardi Gras?</p> <p>2 A. Mardi Gras is a fun house.</p> <p>3 Q. How is that powered?</p> <p>4 A. Powdered by a generator.</p> <p>5 Q. Where is that generator located?</p> <p>6 A. Probably -- usually that whole line is the 7 Belle City generator.</p> <p>8 Q. Okay. So when you say the whole line, do 9 you mean from --</p> <p>10 A. From Cars -- Cars down to Moonraker.</p> <p>11 Q. Okay. So with the exception of offices, 12 those one, two, three, four, five, six rides or 13 attractions are connected to the BCA generator?</p> <p>14 A. Yes.</p> <p>15 Q. What is -- is Cars an attraction?</p> <p>16 A. Anything in blue is a ride.</p> <p>17 Q. Who owns Cars?</p> <p>18 A. Amusements of America.</p> <p>19 Q. And does that say Far West Train?</p> <p>20 A. Far West Train.</p> <p>21 Q. And that's a ride?</p> <p>22 A. Yes.</p> <p>23 Q. Who owns that ride?</p> <p>24 A. Amusements of America.</p> <p>25 Q. And who owns Mardi Gras?</p>	<p style="text-align: right;">233</p> <p>1 A. Amusements of America.</p> <p>2 Q. And who owns Alpine Bob?</p> <p>3 A. Prime Time Amusements.</p> <p>4 Q. What about the Scrambler?</p> <p>5 A. Prime Time.</p> <p>6 Q. And the Moonraker?</p> <p>7 A. Belle City.</p> <p>8 Q. So, of the 66 rides that are using Belle 9 City generator, only the Moonraker is owned by Belle 10 City?</p> <p>11 A. Correct.</p> <p>12 Q. Does Amusements of America pay Belle City 13 to use its generator?</p> <p>14 A. No. We put fuel in it and it's just 15 included when they book rides.</p> <p>16 Q. Where is it included when you book rides?</p> <p>17 A. It's understood. It's verbal.</p> <p>18 Q. It's a verbal agreement?</p> <p>19 A. Yeah.</p> <p>20 Q. That Belle City will provide the generator 21 to source and power one, two, three rides owned by 22 Amusements of America?</p> <p>23 A. Yes.</p> <p>24 Q. Do you know if Prime Time pays Belle City 25 to use its generator?</p>

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<p style="text-align: right;">234</p> <p>1 A. They don't.</p> <p>2 Q. So the arrangement that you are speaking</p> <p>3 of where Amusements of America uses Belle City's</p> <p>4 generator is strictly by a verbal agreement?</p> <p>5 A. Yes.</p> <p>6 Q. Who from Belle City would this verbal</p> <p>7 agreement have been made with?</p> <p>8 A. Zach Panocek.</p> <p>9 Q. What are the pink blocks?</p> <p>10 A. The pink blocks are Amusements of America</p> <p>11 booked-in concessions.</p> <p>12 Q. What's the peach colored shapes?</p> <p>13 A. Peach colored?</p> <p>14 Q. Ah, this color (indicating).</p> <p>15 A. Oh, I'm sorry. It's a little different on</p> <p>16 mine. Mine is like a tannish. Yeah, those are all</p> <p>17 of Delta Fair's bookings.</p> <p>18 Q. Do you see where it said TB?</p> <p>19 A. Yes.</p> <p>20 Q. What does that mean?</p> <p>21 A. Ticket box.</p> <p>22 Q. And so there are multiple ticket boxes</p> <p>23 sort of clustered together?</p> <p>24 A. Yes.</p> <p>25 Q. And what is HS?</p>	<p style="text-align: right;">235</p> <p>1 A. Hand stamp booth.</p> <p>2 Q. Did you talk to anyone from Delta Fair</p> <p>3 about the August 30, 2016 incident?</p> <p>4 A. I'm sure I did. I couldn't recall who or</p> <p>5 when. They were definitely involved. They were</p> <p>6 there.</p> <p>7 Q. You said Delta Fair -- somebody with Delta</p> <p>8 Fair was involved with it?</p> <p>9 A. Yeah. Anything that happens on midway,</p> <p>10 they are informEd.</p> <p>11 Q. Who do you recall was from Delta Fair?</p> <p>12 A. I mostly recall Brian Ellsworth.</p> <p>13 Q. You mentioned a conversation about the</p> <p>14 generator that involved Josh and Zach, where you</p> <p>15 discussed what happened as far as electricity flow.</p> <p>16 Do you recall that testimony?</p> <p>17 A. I don't recall talking to Josh and Zach in</p> <p>18 general mentioning that. But maybe just the</p> <p>19 incident. I don't know about -- did you say</p> <p>20 generator? I think just the whole thing in general</p> <p>21 I remember having a conversation, not particularly</p> <p>22 about the generator, with Josh and Zach.</p> <p>23 Q. Okay. So there was a conversation where</p> <p>24 Josh and Zach were both present?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">236</p> <p>1 Q. Was this the same conversation where you</p> <p>2 said Zach told you it was not grounded?</p> <p>3 A. No.</p> <p>4 Q. So there was a separate conversation that</p> <p>5 involved Josh and Zach and yourself?</p> <p>6 A. Yes.</p> <p>7 Q. Was anyone else involved in that</p> <p>8 conversation?</p> <p>9 A. I don't recall.</p> <p>10 Q. Okay. When was that conversation?</p> <p>11 A. About the generator not being grounded?</p> <p>12 Q. About -- no, the conversation involving</p> <p>13 you, Josh and Zach.</p> <p>14 A. It was immediately after I got the phone</p> <p>15 call from Zach about the incident. And then when I</p> <p>16 went out to check on it, they were both there and we</p> <p>17 were talking about it. I don't remember exactly</p> <p>18 where.</p> <p>19 Q. And this was before you took Ronnie to the</p> <p>20 front so that the paramedics could pick him up?</p> <p>21 A. After.</p> <p>22 Q. It was after. Was this in the vicinity of</p> <p>23 where it happened, this conversation with Josh, Zach</p> <p>24 and yourself?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">237</p> <p>1 Q. Was this before or after the utility</p> <p>2 company came?</p> <p>3 A. Before.</p> <p>4 Q. I thought I understood your testimony to</p> <p>5 be that you didn't go back to the area until the</p> <p>6 utility company came to turn the power off.</p> <p>7 A. Well, the area meaning that whole row, not</p> <p>8 the area where the hot wire is.</p> <p>9 Q. Okay. So on the layout where in the row</p> <p>10 were you when you had the conversation with Josh and</p> <p>11 Zach and yourself?</p> <p>12 A. Either -- it could have been in two</p> <p>13 different places, because I don't remember exactly.</p> <p>14 Either it was within 50 feet or so of the Ring of</p> <p>15 Fire or it's probably where I brought Ronnie down --</p> <p>16 that's where it was. When I brought Ronnie down --</p> <p>17 closer to the Cars where Edward Yearta was, where I</p> <p>18 dropped Ronnie off waiting for the ambulance, I</p> <p>19 believe that's where we had the conversation.</p> <p>20 Q. So you dropped Ronnie off at gate 2?</p> <p>21 A. Yes.</p> <p>22 Q. How long after this conversation with you,</p> <p>23 Josh and Zach did the conversation with Zach</p> <p>24 regarding the grounding take place?</p> <p>25 A. I don't know the timing of it. I know</p>

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<p style="text-align: right;">238</p> <p>1 when the power company showed up, that's when the 2 conversation happened.</p> <p>3 Q. When you were having a conversation with 4 Josh and Zach, did Zach mention anything about the 5 generator?</p> <p>6 A. I don't believe so.</p> <p>7 Q. So this verbal agreement that Amusements 8 of America has with Belle City regarding Amusements 9 of America using Belle City's generator to power 10 amusement rides, what does Belle City get out of it?</p> <p>11 A. They get to book many rides with us.</p> <p>12 Q. In the future?</p> <p>13 A. No, always. When they book with us, they 14 always brought generators every single time.</p> <p>15 Q. Is that always at a request by you?</p> <p>16 A. Yeah.</p> <p>17 Q. Have you ever asked them to bring a 18 generator as a backup?</p> <p>19 A. No.</p> <p>20 Q. Besides Belle City and Prime Time, what 21 other ride operators did Amusements of America 22 contract with for the 2016 Delta Fair?</p> <p>23 A. Well, Belle City, Prime Time, PB&J 24 Amusements. What else is there? Let's see. I 25 think one was called Fun Time. He had a fun house</p>	<p style="text-align: right;">239</p> <p>1 there. And one other show, the owner is Joe 2 Frankowski.</p> <p>3 Q. Do you have verbal agreements with any 4 other ride operators to bring their generators?</p> <p>5 A. Yes.</p> <p>6 Q. Which ones?</p> <p>7 A. PB&J.</p> <p>8 Q. Is that the only one?</p> <p>9 A. Yes.</p> <p>10 Q. Why is it that you do not have a verbal 11 agreement with Prime Time for Prime Time to bring a 12 generator?</p> <p>13 A. I only needed two.</p> <p>14 Q. You only needed two for the 2016 Delta 15 Fair?</p> <p>16 A. Yes.</p> <p>17 Q. The other generators that are listed, that 18 are depicted or shown on this layout, who owns those 19 generators?</p> <p>20 A. Amusements of America.</p> <p>21 Q. How many generators does Amusements of 22 America own?</p> <p>23 A. I believe we have five there, but we have 24 others that aren't there.</p> <p>25 Q. Are there ever situations where you don't</p>
<p style="text-align: right;">240</p> <p>1 ask ride operators to bring generators at all?</p> <p>2 A. Yes.</p> <p>3 Q. What are those situations?</p> <p>4 A. Well, if they only have one -- it all 5 depends on the amount of rides they bring. Both 6 PB&J and Belle City brought multiple rides. So 7 usually when you do that, in our industry, you ask 8 them to bring a generator. If you're just bringing 9 one ride, that's not required.</p> <p>10 Q. Beside the Moonraker, what other ride was 11 Belle City bringing to the 2016 -- or what other 12 ride did Belle City bring to the 2016 Delta Fair?</p> <p>13 A. Crazy Plane, the Berry's, the Free Fall, I 14 think the Scooter, Zero Gravity, a Mini Himalaya, 15 Peter and Paul, Mini Enterprise. That looks like 16 it. They had another one scheduled to come but 17 something happened to it. It was -- a broken part 18 on it. That would be the Free Fall.</p> <p>19 Q. That's not on the Memphis layout 2016?</p> <p>20 A. Correct.</p> <p>21 Q. Okay. Can you tell me which of those 22 rides were connected to the Belle City generator?</p> <p>23 A. The Moonraker.</p> <p>24 Q. Is that the only Belle city-owned ride 25 that was hooked up to the Belle City generator?</p>	<p style="text-align: right;">241</p> <p>1 A. Yes.</p> <p>2 Q. When you had that conversation with Zach 3 where you said he told you it was not grounded, did 4 you go and look at the generator?</p> <p>5 A. Yes.</p> <p>6 Q. Did you see that it was not grounded?</p> <p>7 A. Yes.</p> <p>8 Q. How did you see that?</p> <p>9 A. With my eyes and then took a picture of 10 it.</p> <p>11 Q. At the point that you looked at it and 12 took a picture, this was after the incident?</p> <p>13 A. Yes.</p> <p>14 Q. How long after the incident?</p> <p>15 A. I would say probably an hour and a half 16 about. It was over an hour.</p> <p>17 Q. Did you check to see that the generator 18 got grounded?</p> <p>19 A. Yes.</p> <p>20 Q. When did you go to see -- go to check if 21 the generator was grounded?</p> <p>22 A. Sometime that evening.</p> <p>23 Q. After it was dark?</p> <p>24 A. After -- I don't know what time it was. I 25 just remember them telling me it was grounded and I</p>